

SMB
7/28/08UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 JUL 28 AM 10:58

UNITED STATES OF AMERICA,

Magistrate Docket No.

Plaintiff,

08 JUL 28 AM 10:58
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

v.

COMPLAINT FOR VIOLATION OF:

Simon FABELA,

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

Defendant

DEPUTY

The undersigned complainant, being duly sworn, states:

On or about **July 25, 2008**, within the Southern District of California, defendant, **Simon FABELA**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **28th** DAY OF **JULY, 2008**.



Jan M. Adler
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Simon FABELA

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On July 25, 2008 Supervisory Border Patrol Agent J. Viau and J. Callanan were performing line watch duties, within the Imperial Beach Station area of operations. At approximately 9:30 am Agent John Callanan received a "citizen's report" from a Kiewit Construction Company worker regarding an unknown water truck leaving their lot near an area commonly referred to as "Whiskey 10".

The Kiewit Construction Company is working along the United States/Mexico International Boundary. "Whiskey 10" is approximately two miles west of the San Ysidro, California Port of Entry is adjacent to the United States Mexico International Boundary Fence.

The worker stated to Agent Callanan that a white water tanker had left their lot but the truck did not belong to the Kiewit Construction Company. The worker pointed to the white water tanker traveling northbound on Dairymart Road, crossing the Dairymart Bridge. Smugglers of illegal aliens have frequently been utilizing "copy-cat" vehicles to illegally smuggle their human cargo further into the United States.

These vehicles are being used by smugglers in an attempt to blend in with the construction company without raising the suspicion of the United States Border Patrol. Agent Callanan pulled behind the water tanker as it was entering the northbound Interstate 5 freeway. Agent Callanan activated his fully functional emergency lights and siren in an attempt to pull the water tanker over.

The vehicle failed to yield and continued north along Interstate 5. The tanker truck abruptly drove across three lanes of traffic and entered Exit 7A (L Street) in Chula Vista. The tanker truck then stopped in the middle of the intersection of L Street and Industrial Avenue. A search of the water tanker revealed 49 individuals, packed inside of the empty tank.

All occupants in the water tank were queried as to their immigration status. Each subject including one later identified as the defendant **Simon FABELA** admitted to being a citizen and national of Mexico illegally present in the United States. All of the individuals were placed under arrest and subsequently transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on July 22, 2008 through Nogales, Arizona.**

These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Case 3:08-cr-02769-GT
CONTINUATION OF COMPLAINT:

Document 1

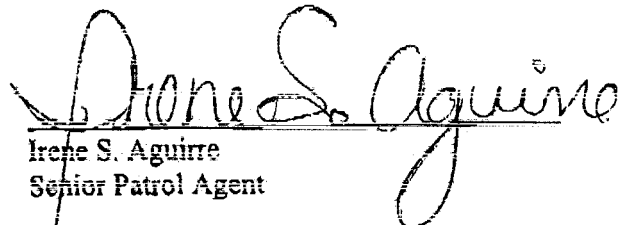
Filed 07/28/2008

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Simon FABELA

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.

Executed on July 26, 2008 at 10:00 A.M.


Irene S. Aguirre
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of one page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on July 25, 2008, in violation of Title 8, United States Code, Section 1326.


Jan M. Adler
United States Magistrate Judge

7/26/08 134 PM
Date/Time